

TITLE IX
BUSINESS AND TRADES

(The purpose of this Title is to cover ordinances that regulate business and trade within the County of Kauai. The provisions within these Ordinances will generally enumerate rules prescribing how a specific business or trade is to be conducted, conditions of license issuance and penalties for the violation thereof.)

CHAPTER

23 REGULATION OF BUSINESS AND TRADES
23A ENTERPRISE ZONES

CHAPTER 23
REGULATION OF BUSINESS AND TRADES

- | | |
|--------------|--|
| Article 1. | Taxis |
| Sec. 23-1.1 | Purpose And Rulemaking Authority |
| Sec. 23-1.2 | Definitions |
| Sec. 23-1.3 | Taxicab Driver's Permit |
| Sec. 23-1.4 | Suspension And Revocation Of Permits |
| Sec. 23-1.5 | Appeal To Director of Finance |
| Sec. 23-1.6 | Taximeters |
| Sec. 23-1.7 | The Rates Of Fare And Baggage Charge |
| Sec. 23-1.8 | Special Operations; Additional Passenger |
| Sec. 23-1.9 | Rooftop Sign |
| Sec. 23-1.10 | Posting Of Rates Of Fare and Information To File Complaints |
| Sec. 23-1.11 | Penalty |
| Sec. 23-1.12 | Taxicab Permit |
| Sec. 23-1.13 | Annual Vehicle Inspection |
| Sec. 23-1.14 | Limitation On Number Of Taxis |
| Article 2. | Scrap Metal Dealers |
| Sec. 23-2.1 | Purpose |
| Sec. 23-2.2 | Definitions |
| Sec. 23-2.3 | License Fee |
| Sec. 23-2.4 | Conditions Of License Issuance |
| Sec. 23-2.5 | Place Of Business; Inspection |
| Sec. 23-2.6 | Penalty |
| Article 3. | Peddlers And Concessionaires |
| Sec. 23-3.1 | Peddling At County Parks, Playgrounds And Other Facilities |
| Sec. 23-3.2 | Peddling On The Beaches Of Kauai |
| Sec. 23-3.3 | Peddlers At The Spouting Horn |
| Sec. 23-3.4 | The Sunshine Market; Site Of |
| Sec. 23-3.5 | Refreshment Concession At Lydgate Park |
| Sec. 23-3.6 | Commercial Call Center Concession At The Pi'ikoi County Building |
| Article 4. | County Business Licenses |
| Sec. 23-4.1 | County Business Licenses |
| Sec. 23-4.2 | Elimination Of Business Licenses |

ARTICLE 1. TAXIS

Sec. 23-1.1 Purpose And Rulemaking Authority.

An Article providing for the regulation and control of taxicab drivers, establishing taxicab rates and fares, and providing penalties for the violation thereof. The Director of Finance is authorized to promulgate any rules or regulations not inconsistent with this chapter, having the force and effect of law, as provided for in Chapter 91, HRS, in the administration and enforcement of this chapter. (Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.1, R.C.O. 1976; Ord. No. 556, September 14, 1989; Ord. No. 814, February 18, 2004)

Sec. 23-1.2 Definitions.

(1) "Director of Finance" means the director of finance of the County of Kauai, or the director's duly authorized subordinate in the Driver License Section of the Finance Department.

(2) "Designated Service Area" means the area that the owner of the Taxi Company has designated as his main operation area.

(3) "Person with a disability" means a person with physical impairment which substantially limits one or more of a person's major life activities as defined under HRS §515-2 and the American Disabilities Act, Pub. L. 101-336.

(4) "Passenger" means one (1) or more persons employing, engaging, or utilizing a taxicab for hire. The term "passenger" however, shall not include the operator of the taxicab nor any child under the age of five (5) years not occupying seating space.

(5) "Senior Citizen" means a person who has attained the age of 62 years, bearing proof of age.

(6) "Student" means a resident of Kaua'i who bears a current student identification card.

(7) "Taxicab" means and includes any motor vehicle equipped with a taximeter and designed by the manufacturer to carry eight (8) passengers or less, operating for hire within the geographical limits of the County of Kauai and accepting a passenger with or without baggage for transportation between points as may be directed by the passenger the charges for service being based upon the distance traveled, plus waiting time.

The term "taxicab" shall not include:

- (A) Sightseeing buses;
- (B) Buses employed solely for the transportation of school children or teachers;
- (C) Hotel buses operated solely between piers, airplane terminals or hotels;
- (D) Chartered motor vehicles;
- (E) Motor vehicles rented or hired on a "U-Drive" or "Drive-Yourself" basis; or
- (F) Motor vehicles operated under a certificate of public convenience and necessity by the P.U.C.

(8) "Waiting Time" means the time during which a taxicab is standing by at the direction of a passenger or traffic waiting time. (Ord. No. 74, March 15, 1950; Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.2, R.C.O. 1976; Ord. No. B-270-85, June 12, 1985; Ord. No. 532, December 9, 1987; Ord. No. 746, February 23, 2000; Ord. No. 814, February 18, 2004)

Sec. 23-1.3 Taxicab Driver's Permit.

(a) It shall be unlawful for any person to drive a taxicab for purpose of hire without a valid Taxicab Driver's permit from the Director of Finance. Such permit shall be placed in a visible place, within the taxicab being driven by the person to whom it was issued. The permit shall bear a serial number, the name, address and driver's license number of the holder of the permit, a recent photograph of the holder of the permit, the photograph to be not less than three (3) inches in height and two (2) inches in width, and other information as specified by the Director of Finance. The Photograph shall be supplied by the applicant for the permit. It shall be a violation of this section for any person to alter such taxicab driver's certificate.

(b) There shall be a fee of Twenty Dollars (\$20.00) for each taxicab driver's permit. In addition, there shall be established a test fee of One Dollar (\$1.00) for each written exam taken by applicants.

(c) No permit shall be issued to any person unless that person has/is:

(1) A valid State of Hawaii driver's license.

(2) Eighteen years of age or older at the time of application and has no less than two years' driving experience prior to operating a taxicab.

(3) Satisfactorily passed an examination showing:

(A) A sufficient knowledge of the traffic laws of the County of Kauai, and this article, and the Rules & Regulations of the Director of Finance relating to taxicabs;

(B) A sufficient knowledge of the locations of streets, roads, and highways and of important County and State buildings and places within the County of Kauai;

(C) Be able to speak and understand the English language well enough to comprehend and communicate safety and regulatory requirements applicable to taxicabs and satisfactorily to passenger inquiries.

(D) Complied with the standards promulgated by the Director of Finance relating to moral character and driving history of the applicant based on prior records or certified documents relative thereto.

(d) Every permit issued under this Section shall expire, unless otherwise revoked or cancelled, one (1) year after the

issuance thereof and shall be renewed by the Director of Finance on or before its expiration date upon the applicant's meeting the standards set forth in Section 23-1.3(c) hereinabove. The Director of Finance may accept an application for permit renewal not more than one month prior to the date of expiration. A new set of photographs shall be furnished with each application for renewal.

(e) The issued permit shall not be transferable.

(f) Upon payment of fees required by this section, the Director of Finance shall issue a permit to be placed in the taxicab. When a permit is lost, stolen, or mutilated, a replacement shall be issued upon collection of a fee of Five Dollars (\$5.00). (Ord. No. 74, March 15, 1950; Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.3, R.C.O. 1976; Ord. No. B-270-85, June 12, 1985; Ord. No. 488, May 12, 1986; Ord. No. 532, December 9, 1987; Ord. No. 556, September 14, 1989; Ord. No. 746, February 23, 2000; Ord. No. 814, February 18, 2004)

Sec. 23-1.4 Suspension And Revocation Of Permits.

Any permit issued pursuant to the provisions of this Article may be suspended or revoked by the Director of Finance, upon compliance with administrative due process, whenever:

(1) The holder of a permit is found to be disqualified by any provision of this Article;

(2) The holder of a permit has been convicted for a violation of the provisions of this Article or violates any of the standards of moral character and driving history set forth in the Rules & Regulations of the Director of Finance;

(3) The holder of a permit has been convicted of driving while intoxicated or of violating the provisions of Chapter 329, H.R.S., as amended, or the provisions of the Federal Narcotics laws. (Ord. No. 74, March 15, 1950; Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.4, R.C.O. 1976; Ord. No. B-270-85, June 12, 1985; Ord. No. 532, December 9, 1987; Ord. No. 556, September 14, 1989; Ord. No. 746, February 23, 2000; Ord. No. 814, February 18, 2004)

Sec. 23-1.5 Appeal To Director Of Finance.

Any applicant who has been refused a taxicab driver's permit after at least three (3) examinations or who has been refused any examination, may appeal from the refusal to the Director of Finance by filing his petition within thirty (30) days of the date of the third refusal, provided that the appeal shall not operate as a stay to the order or decision appealed from. (Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.5, R.C.O. 1976; Ord. No. 746, February 23, 2000; Ord. No. 814, February 18, 2004)

Sec. 23-1.6 Taximeters.

(a) Installation. Every taxicab while operating within the County of Kauai shall be equipped with a taximeter so mounted in the taxicab that the reading indicator showing the amount of fare to be charged shall at all times be plainly visible to the passenger. Between the hours of sunset and sunrise, the reading indicator showing the amount of the fare shall be well lighted and readily discernible by the passenger riding in the taxicab. A taximeter shall be equipped with a primary indicating element. Except when a taximeter is being cleared, the primary indicating elements shall be susceptible of advancement only by the rotation of the vehicle wheels or by the time mechanism. The figures of the reading indicator showing the amount of the fare shall be of a size that shall be plainly visible to the passenger. The taximeter shall have a position recording mileage only and another recording waiting time. The taximeter shall have a clearly visible fare-indicating mechanism to denote when the taxicab is employed and when it is not employed. It shall be sealed at all points and connections which, if manipulated, would affect its correct reading and recording.

(b) Operation. When a taxicab is employed, it shall be the duty of the driver to place the taximeter into the appropriate employed position so as to record mileage while the taxicab is in motion and to record waiting time. The taximeter shall be kept in the appropriate employed position until the termination of the trip. At the termination of the trip, it shall be the duty of the driver to place the taximeter into the non-employed position.

(c) Registration, Inspection and Fees.

(1) No driver or owner of a taxicab shall offer or let the taxicab for hire unless the taximeter installed therein or adjusted for any change in mileage rate shall have been first registered with and inspected by the Division of Weights and Measures of the State of Hawaii and found to calculate and register fares correctly in conformity with the rates as set forth in this Article and a seal attesting thereto shall have been placed on the taximeter. It shall be the duty of the owner or driver of any taxicab equipped with a taximeter to submit the taximeter to the Division of Weights and Measures of the State of Hawaii for inspection, as required, testing and sealing before the date as may be established by the Division of Weights and Measures of the State of Hawaii. Every inspection shall include the examination and inspection of the taximeter affixed in the taxicab and every wheel, tire, gear shaft or any other part of the taxicab, which may effect or control the operation of the taximeter.

(2) If upon periodic inspection, the Division of Weights and Measures of the State of Hawaii shall find that a taximeter is not calculating the rates as set forth in this Article, it shall be unlawful to operate the taxicab or to permit the taxicab to be operated until

its taximeter shall have been repaired, inspected, tested and found to be calculating and registering in conformity with the rates as set forth in this Article and a seal shall have been placed thereon. Nothing contained in this Section shall prohibit the replacement of a taximeter with another that conforms with the provisions of this Article.

(3) (3) The taxicab driver or owner shall pay fees as may be established by the Division of Weights and Measures of the State of Hawaii for each taximeter inspection. (Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.6, R.C.O. 1976; Ord. No. 746, February 23, 2000; Ord. No. 814, February 18, 2004)

Sec. 23-1.7 The Rates Of Fare And Baggage Charge.

(a) Rates of fare within the County of Kauai. Unless otherwise provided herein, no driver or owner of a taxicab while operating the taxicab within the County of Kauai shall charge, demand, collect or receive a fare other than that based on the following schedule:

(1) Rate 1. Initial meter actuation shall equal Two Dollars and Fifty Cents (\$2.50) and shall entitle the passenger to one-eighth (1/8) mile or less, or forty-five seconds standing time or less.

(2) Thereafter, for each one-eighth (1/8) mile additional, or less\$0.30

(3) For each forty five (45) seconds of additional waiting time or less\$0.30

(4) Charge for each piece of baggage other than wheelchairs, bicycles and surf boards, handled by the driver in loading, unloading or both\$0.40

(5) Charge for each surfboard, bicycle, baggage, freight or parcel too large to be carried within the rear passenger compartment or trunk of the taxicab\$4.00

(6) Rate 2. Initial meter actuation.....\$100.00 shall equal and shall entitle the passenger to two (2) hours or less of touring or chartered time. A minimum two (2) hours of touring or chartered time is required.

(7) Thereafter, for each fifteen (15) minutes of touring or chartered time or less.....\$12.50

Nothing contained in this Subsection shall be construed to permit charging mileage or waiting time rates of fare which are greater or less than or different from those established and fixed by the schedule.

(b) Whenever, pursuant to request, it is necessary for a taxicab to leave its designated service area to pick up a passenger whose pickup and drop off is outside or beyond the

designated service area, the distance between the designated service area and the point of pickup may be added to the actual distance transported, otherwise, the distance between the [designed] designated service area and the point of pickup shall not be added to the distance over which the passenger is actually transported when computing the total amount of fare which may be charged under this Section, nor shall the distance a taxicab must travel in order to return to the designated service area after discharging a passenger be included in the mileage for which any fare may be charged.

(c) The foregoing rates or charges shall be subject to the following exceptions and conditions whichever the case may be:

(1) Fares are only applicable to the use of the taxicabs when actually occupied by or standing at the direction of the passenger for hire or when occupied by parcels, baggage or property transported for hire; provided that no other charges shall be made for the use of a taxicab for hire except as provided herein.

(2) A driver, owner or lessee who owns, operates, controls or dispatches a taxicab may give a discount to persons with a disability, senior citizens, or students, as defined in Sec. 23-1.2. Such discount shall not exceed twenty percent of the meter fare. (Ord. No. 74, March 15, 1950; Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Ord. No. 152, September 16, 1971; Ord. No. 251, May 23, 1975; Sec. 23-1.7, R.C.O. 1976; Ord. No. 365, June 12, 1979; Ord. No. 370, August 8, 1979; Ord. No. 385, June 5, 1980; Ord. No. 448, July 13, 1983; Ord. No. 574, August 6, 1990; Ord. No. 597, December 6, 1991; Ord. No. 746, February 23, 2000; Ord. No. 760, May 2, 2001; Ord. No. 814, February 18, 2004)

Sec. 23-1.8 Special Operations; Additional Passenger.

(a) Charge to Separate Destination: Upon the approval of the taxi driver and with the agreement of the first passenger, an additional passenger or passengers will be allowed to share the taxi. The fare will be collected at the end of the first destination. Upon starting to the second destination, the meter will be dropped. This fare will be collected at the end of the second destination.

(b) Charge for Passengers to Same Destination: Upon agreement of the taxi driver and the first passenger, an additional passenger or passengers will be allowed to share the taxi. There will be an additional twenty percent (20%) charge of the metered rate upon arrival at destination. (Ord. No. 74, March 15, 1950; Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.8, R.C.O. 1976; Ord. No. 597, December 6, 1991; Ord. No. 814, February 18, 2004)

Sec. 23-1.9 Rooftop Sign.

All taxicabs shall be equipped with rooftop signs indicating the word, "Taxi" or firm name thereon and equipped with a light for night operation. (Ord. No. 137, June 5,

1968; Sec. 17, C.O. 1971; Sec. 23-1.9, R.C.O. 1976; Ord. No. 760, May 2, 2001; Ord. No. 814, February 18, 2004)

Sec. 23-1.10 Posting Of Rates Of Fare And Information To File Complaints.

(a) Schedules of the rates of fare, as provided in this Article shall be posted in a conspicuous place within each taxicab so as to be readily visible to any passenger riding within the taxicab. The schedule shall be legibly printed in bold-type letters not less than three-thirty seconds (3/32) of an inch in height. The mileage and time rates for which a taximeter is adjusted, and the schedule of extras when an extra mechanism is provided shall be conspicuously displayed inside the vehicle. The words "Rate," "Rates," or "Rates of Fare" shall precede the rate statement. The rate statement shall be fully informative, self-explanatory, and readily understandable by the ordinary passenger, and shall either be of a permanent character or be protected by glass or other suitable transparent material

(b) Every taxicab shall be equipped with a sign, conforming to specifications outlined by the Director of Finance, listing the telephone number and mailing address where complaints may be filed. The Director of Finance shall provide the sign at a charge to the taxi owner of three dollars (\$3.00). The sign shall at all times be plainly visible to the passenger. All complaints received by the Director of Finance shall be documented and forwarded to his duly authorized subordinate in the Driver License Section. (Ord. No. 74, March 15, 1950; Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.10, R.C.O. 1976; Ord. No. 746, February 23, 2000; Ord. No. 814, February 18, 2004)

Sec. 23-1.11 Penalty.

Any person convicted of violating any of the provisions of this Article shall be punished by a fine not exceeding Five Hundred Dollars (\$500) for each offense. (Ord. No. 74, March 15, 1950; Ord. No. 137, June 5, 1968; Sec. 17, C.O. 1971; Sec. 23-1.11, R.C.O. 1976; Sec. 23-1.12, 1978 Cumulative Supplement; Ord. No. 536, February 4, 1988; Ord. No. 814, February 18, 2004)

Sec. 23-1.12 Taxicab Permit.

(a) In order for a taxicab to be operated by a permitted taxicab driver, the taxicab must have a valid taxicab permit from the Department of Finance, Driver License Section. Such permit shall be placed in a visible place on the taxicab.

(b) There shall be an annual fee of One Hundred Twenty-Five Dollars (\$125.00) for each taxicab operated in the County of Kaua'i.

(c) Every permit issued under this Section shall expire, unless otherwise revoked or canceled, one (1) year after issuance thereof. (Ord. No. 814, February 18, 2004)

Sec. 23-1.13 Annual Vehicle Inspection.

It shall be the duty of each taxicab owner or driver to submit the taxicab to the Driver License Section for an inspection prior to the application for a taxicab permit. Every inspection shall include the examination and inspection of the taxicab, testing of the taximeter, and overall inspection for compliance to all the provisions set forth in this Chapter and as set forth in the Rules and Regulations. The inspection shall be done by appointment with the Department of Finance and completed before the application for a taxicab driver's permit. (Ord. No. 814, February 18, 2004)

Sec. 23-1.14 Limitation on Number of Taxis.

(a) The number of taxicabs authorized to operate on the island of Kauai shall be limited on the basis of one taxicab for every fifty (50) hotel rooms on the island. The Director of Finance shall reevaluate the formula for calculating the number of taxicabs authorized to operate at least once every three (3) years, or upon review if the Director of Finance has found that hotel room growth has exceeded formula derivatives.

(b) The number of hotel rooms within the county shall be determined by reference to the most current statistics from the County of Kauai, Office of Economic Development.

(c) If the periodic count of hotel rooms permits an increase in the number of taxicabs operating, the Director of Finance shall publish a notice in a newspaper of general circulation within the county of the additional number of taxicabs permitted, and shall award the additional taxicabs to interested applicants by public drawing. Publication shall occur at least thirty (30) days prior to such public drawing.

(d) Any taxicab in operation as of February 23, 2000 shall be permitted to continue operation provided that the requirements set forth in Sec. 23-1.12 and 23-1.13 are met.

Nothing in this chapter shall be construed to prevent the replacement or substitution of a taxicab by another vehicle, or to prevent the sale of a taxicab. (Ord. No. 746, February 23, 2000; Ord. No. 814, February 18, 2004)

ARTICLE 2. SCRAP METAL DEALERS**Sec. 23-2.1 Purpose.**

An Article relating to the licensing and regulation of scrap metal dealers. (Ord. No. 115, August 1, 1962; Sec. 18, C.O. 1971; Sec. 23-2.1, R.C.O. 1976)

Sec. 23-2.2 Definitions.

When used in this Article the following words or phrases shall have the meaning given in this Section unless it shall be apparent from the context that a different meaning is intended:

- (1) "Scrap Metal Dealer" means any person engaged in the business of buying or selling scrap metal of any kind or nature.

(2) "Chief of Police" means the Chief of Police of the County of Kauai.

(3) "Treasurer" means the Treasurer of the County of Kauai. (Sec. 23-2.2, R.C.O. 1976)

Sec. 23-2.3 License Fee.

Scrap metal dealers shall pay an annual fee of Ten Dollars (\$10) for a license to buy and sell scrap metal. (Ord. No. 115, August 1, 1962; Sec. 18, C.O. 1971; Sec. 23-2.3, R.C.O. 1976)

Sec. 23-2.4 Conditions Of License Issuance.

Every license shall be issued upon these express conditions which shall be set forth in the licenses:

(a) That the scrap metal dealer will keep a book in which shall be written the date, quantity, amount, an accurate description of the item or items of scrap and the name of the person from whom he purchased or received the scrap, together with a concise statement of where the seller obtained the scrap.

(b) That the scrap metal dealer will record all sales of scrap metal according to types and classes of metals.

(c) That the scrap metal dealer will not receive or purchase any scrap metal from any minor, unless the minor can verify the source from which he has obtained the scrap. The verification shall be a signed

statement of an adult who gave, sold or otherwise conveyed the scrap to the minor.

(d) That the scrap metal dealer will forthwith notify the Chief of Police of any offer made by any person to sell, give or convey any item of scrap which the licensee has reasonable cause to suspect has been stolen.

(e) That the scrap metal dealer will notify the Chief of Police one (1) week in advance before he ships any scrap metal out of the island. (Ord. No. 115, August 1, 1962; Sec. 18, C.O. 1971; Sec. 23-2.4, R.C.O. 1976)

Sec. 23-2.5 Place Of Business; Inspection.

Every license granted under this Article shall designate the place where the business is carried on and shall continue for one (1) year unless revoked. The books, records, the place where business is carried on and the articles of scrap as property therein may be examined at any time by the Treasurer or the Chief of Police. (Ord. No. 115, August 1, 1962; Sec. 18, C.O. 1971; Sec. 23-2.5, R.C.O. 1976)

Sec. 23-2.6 Penalty.

Every person who engages in the business of buying and selling scrap metal, or who deals therein, unless licensed therefor according to law, or after notice that his license has been revoked, or who, being licensed, neglects to keep the books and make the entries required in Section 23-2.4, or in any way or manner breaches the conditions of the license as specified under the provisions of this Article or is convicted of violating any of the provisions of this Article shall be fined not more than Five Hundred Dollars (\$500) for each offense and shall forfeit his license. (Ord. No. 115, August 1, 1962; Sec. 18, C.O. 1971; Sec. 23- 2.6, R.C.O. 1976)

ARTICLE 3. PEDDLERS AND CONCESSIONAIRES

Sec. 23-3.1 Peddling At County Parks, Playgrounds And Other Facilities

(a) Findings and Purpose. The Council finds that peddling of wares and services, principally peddling of wares in County facilities has increased at an alarming rate. Unfortunately, most of the peddling activities are carried on in County parks and playgrounds and at visitor attraction points principally because the number of persons at these locations means potential sales. Too often the activities carried on by the peddlers mar the visual beauty of the sites in addition to creating dissatisfaction among many visitors and among the other businessmen of the County.

The peddling activities have grown to such an extent that some control of the activity is a necessity. The purpose of this Section is to regulate peddlers and concessionaires at County parks, playgrounds and other County facilities.

(b) License Fee; Exceptions. The annual fee for a peddler's license as provided for in Section 445-141, H.R.S., shall be Ten Dollars (\$10). No license shall be required of persons peddling fish, fresh fruit, leis, flowers or vegetables, nor of any person who has reached the age of sixty (60) years. Licensees shall also comply with the requirements of Chapter 237, H.R.S., General Excise Tax Law.

(c) Peddling; When Prohibited.

(1) Except as may be specifically provided by ordinance and Sections 23-3.3 and 23-3.4 it shall be unlawful for any person exempt or licensed as provided for in Section 23-3.1(b) to sell or offer for sale goods, merchandise, novelties, or other wares, or services not including the sale of food, beverage, or refreshment from lunch wagon operations within County parks, playgrounds, and other facilities or on roads abutting County parks, playgrounds or other facilities.

(2) Concession space may be set aside within parks and playgrounds and other County facilities by the County Engineer without any fee for events, attractions or activities promoted by a non-profit organization, provided that all net profits earned from the concession are used for purposes for which the organization was formed. Non-profit organization means an organization organized and operated for any religious, charitable, educational, recreational or community purpose, no part of the assets, income or earnings of which inures to the benefit of any member thereof. The organization assigned such space shall actively promote the event or attraction and shall operate the concession by its own members or associates to the extent possible.

(3) The County Engineer shall establish rules and regulations subject to the approval of the Council, pertaining to insurance, clean-up, hours of operations, damage liability, and other matters deemed necessary or desirable for the orderly control of peddlers and concession operators and for the protection of the County at County parks, playgrounds and other facilities authorized by ordinance. Nothing in this Section shall prohibit the assessment of charges for items of County cost to the peddler or concession operator. (Ord. No. 219, July 3, 1974; Sec. 23-3.1 et seq., R.C.O. 1976; Ord. No. 341, January 30, 1978; Sec. 23-3.1, 1978 Cumulative Supplement)

(d) Penalty. Any person convicted of violating any provision of this Section shall be punished by a fine not to

(d) Penalty. Any person convicted of violating any provision of this Section shall be punished by a fine not to exceed One Hundred Dollars (\$100) for each offense. (Ord. No. 219, July 3, 1974; Sec. 23-4, R.C.O. 1976; Ord. No. 341, January 30, 1978; Sec. 23-3.1, 1978 Cumulative Supplement)

Sec. 23-3.2 Peddling On The Beaches Of Kauai.

(a) Findings and Purpose. The Council of the County of Kauai finds that complaints have been voiced by tourists and residents that peddlers offering a multitude of goods, wares, merchandise, and at times services, are denying the visitors and residents a restful and quiet enjoyment of the beaches. The Council finds tourism is a vital industry for the County; that the welfare of the entire County is substantially affected by the economic success of its hotels. It is obvious that success of tourism depends entirely on visitor satisfaction of their stay on Kauai. More than the tourists, the residents are entitled to enjoy the beaches without the harassment or undesired intrusion of peddlers. The purpose of this Section is to prohibit peddling on beaches of Kauai for the comfort and welfare of the residents and tourists alike.

(b) Definitions. When used in this Section the following words or phrases shall have the meaning given in this subsection unless it shall be apparent from the context that a different meaning is intended:

(1) "Peddler" means a person or persons in the business of traveling about carrying goods, wares, food, or merchandise for sale to consumers, or any person traveling about selling, offering for sale, soliciting orders for or inviting attention to or promoting in any manner whatsoever, directly or indirectly, goods, wares, merchandise, foodstuffs, refreshments or other kinds of property or services, or to distribute commercial handbills, or carry on or conduct any commercial promotional scheme, advertising programs or similar activity, or any person or persons in business of delivering food, foodstuffs, or refreshments to consumers at a place other than the peddler's fixed place of business, or any person or persons in the business of traveling about to deliver food, foodstuffs, or refreshments to consumers.

(2) "Peddling" means the carrying on of business by a peddler.

(c) Peddling. Unless otherwise provided by law, peddling shall be unlawful in the area between the ocean and the abutting private or government owned property line on the entire Island of Kauai.

(d) Exempted Activities. Any concession or permits granted by the State for any activity shall be exempted from the provision of this Section.

(e) Prima Facie Evidence; Peddling. The presence of a peddler in the areas set forth in Section 23-3.2(c), with his goods, wares, merchandise, foodstuffs, refreshments or

other property or services, which he sells, offers for sale, solicits, orders, invites attention to or promotes, shall constitute prima facie evidence of a violation of this Section.

(f) Penalty. Any person violating any provision of this Section shall be fined not less than Ten Dollars (\$10) nor more than Fifty Dollars (\$50). (Ord. No. 305, May 24, 1977; Sec. 23-3.2, 1978 Cumulative Supplement)

Sec. 23-3.3 Peddlers At The Spouting Horn.

(a) Purpose and Findings. The purpose of this Article is to extend the term for awarding retail vending concessions from noon, June 30, 2002, to noon, June 30, 2007. Existing contracts for the extended term will require re-bidding. Concessionaires who are under existing contracts with the County and who have defaulted on their contracts and who have not fully paid their rental charges at the time of filing their application to bid will be disqualified from bidding for the extended term.

Should the County wish to extend the contracts after June 30, 2007, the Finance Director will be authorized to do so on a month-to-month basis not to exceed a three month period.

(b) Development Plan.

(1) The County shall construct nine (9) vending stalls at Poipu Spouting Horn Park which shall be subject to competitive bidding requirements. One (1) vending stall shall be made available to charitable and non-profit corporations. The vending stall for charitable and non-profit organizations shall be operated and administered in accordance with rules and regulations adopted by the Department of Finance.

(2) The nine (9) vending stalls shall be constructed in accordance with the plot plan attached hereto as Exhibit "A" and made a part hereof. The design of the vending stalls shall be in accordance with the building configuration illustrated in Exhibit "B", attached hereto and made a part hereof. No utilities (water or electricity) shall be permitted.

(3) Parking stalls and loading zones within the Poipu Spouting Horn Park shall be made available to all concessionaires as determined by the Department of Public Works. The County Engineer shall install appropriate signs marking such parking stalls and loading zones.

(c) Award of Concession Contracts.

(1) The eight (8) vending stalls shall be numbered by the Director of Finance in sequence in descending order of desirability from a sales standpoint, the number one space being deemed the most desirable. The spaces shall be subject to competitive bid individually by sealed bid of those persons qualified to bid as determined by the Director of Finance. The upset bid for each of the eight (8) for-profit vending stalls shall be \$1,200.00 per month. Each concessionaire shall post a performance bond.

(2) The Director of Finance shall execute written contracts with the highest qualified bidders and otherwise follow the provisions of Chapter 102, Hawaii Revised Statutes. The Director of Finance shall establish procedures for bidding, specifications for the contracts relating to operations, type of goods permitted for sale, structures and fixtures, maintenance, insurance, parking, signs and such other conditions as may be required for the orderly conduct of business, including sanctions for breach of contract.

(3) New bidding shall be conducted for any vacancies. Concessionaires with existing vending stalls shall be permitted to bid and shall be awarded, upon highest qualified bid, one additional space, on the condition that such concessionaires surrender their existing vending stall.

(4) The County shall continue to extend the existing concession contracts on a month-to-month basis until the new vending stalls are completed and the new concessionaires are authorized to conduct business in accordance with this Article. (Ord. No. 342, February 3, 1978; Sec. 23-3.3, 1978 Cumulative Supplement; Ord. No. 361, March 8, 1979; Ord. No. 409, May 26, 1981; Ord. No. 410, June 25, 1981; Ord. No. 439, November 10, 1982; Ord. No. 450, September 6, 1983; Ord. No. 469, December 15, 1984; Ord. No. 477, July 11, 1985; Ord. No. 485, March 27, 1986; Ord. No. 586, May 31, 1991; Ord. No. 659, July 7, 1994; Ord. No. 717, June 12, 1997; Ord. No. 787, July 29, 2002)

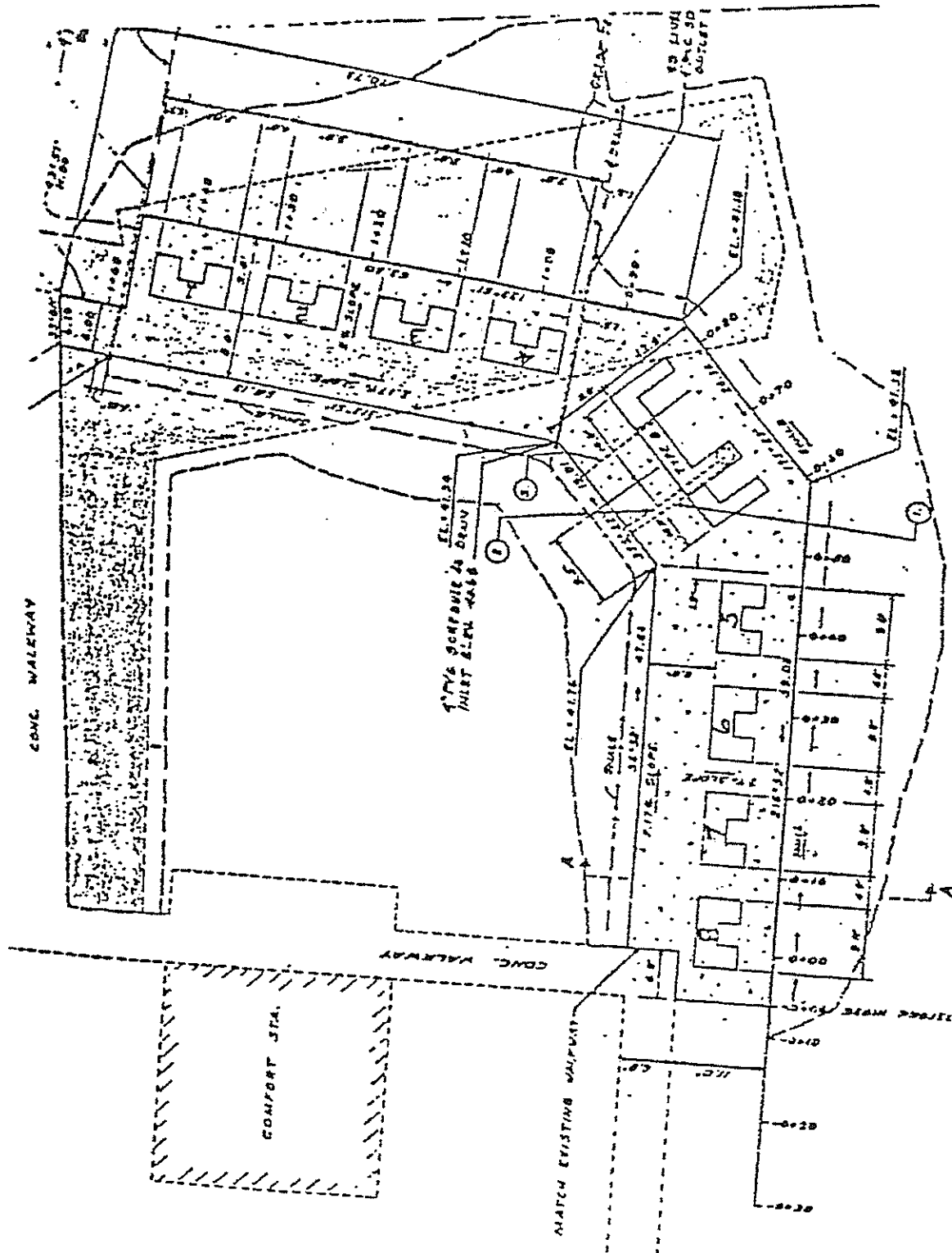


EXHIBIT "A"

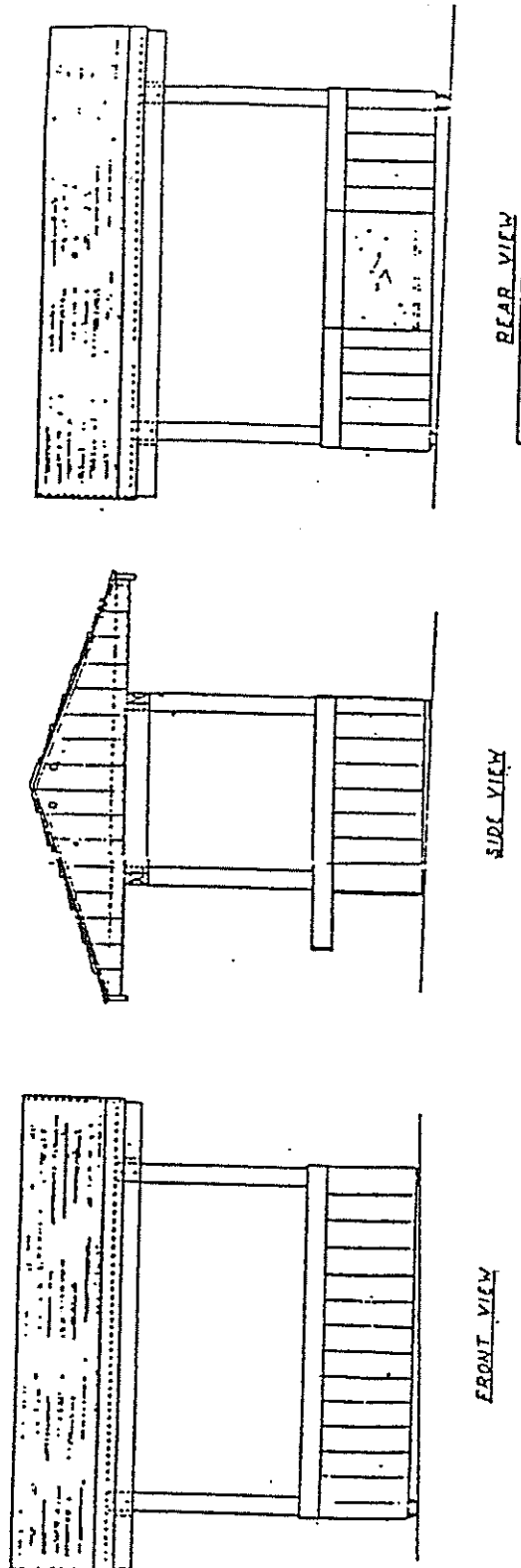


EXHIBIT "B"

Sec. 23-3.4 The Sunshine Market; Site Of.

(a) Purpose. The Sunshine Markets are permitted to operate at sites provided by the County so that selected farm produce and live farm-raised fish grown by Kauai farmers can be made available to the public at reduced prices.

(b) The Director of the Office of Economic Development is authorized to select suitable areas to accommodate the Sunshine Market farmers in the sale of farm produce and live, farm-raised fish at reduced prices. The opening of the site shall be left at the discretion of the Director of Economic Development.

(1) The Director of the Office of Economic Development, in consultation with the Department of Public Works, is authorized to promulgate rules and regulations relating to the area, location, number of farmers, produce and live, farm-raised fish that may be sold, insurance, cleanup, sanitation, hours of operation, traffic control, and such other safety and welfare conditions shall continue in force until subsequent action by the Director, and shall be in addition to any other requirements established by the State.

(2) The Director may delegate the overseeing of regulations to a representative of the farmers operating in the Sunshine Market, provided that in the event of any violation of any rule or regulation, the Director may suspend the operations for an appropriate length of time, depending on the severity and frequency of the violation.

(c) The County shall require each individual vendor to sign a hold harmless agreement. This agreement will be drawn up by the County Attorney and would be one which releases the County from all liability. (Ord. No. 407, February 4, 1981; Ord. No. 666, October 19, 1994)

Sec. 23-3.5 Refreshment Concession At Lydgate Park.

(a) Notwithstanding any ordinance to the contrary, a refreshment concession at Lydgate Park is hereby authorized pursuant to the following minimum requirements:

(1) The County Engineer shall designate the exact location of the refreshment concession.

(2) The refreshment concession shall be operated by a non-profit, charitable organization comprised of disabled persons serving the community.

(3) The county shall not charge a fee for such concession use. Any net profits after start-up expenditures and operating expenses shall be paid to the county. The concessionaire shall submit reports as required by the Finance Director and allow the Finance Director access to all records. Any moneys paid to the County shall be expended exclusively for ADA accessibility for the community.

(4) The concessionaire shall be required to obtain any necessary permits, including but not limited to land

use permits and Department of Health permits, if required.

(5) The County Engineer, in consultation with the Finance Director and County Attorney, shall establish requirements pertaining to qualifications of concessionaire, method of award (including the non-bid option in Sec. 102-2, HRS, if applicable), term of concession, capital expenditures and operating expenses allowed, food and beverage allowed (excluding intoxicating liquors), insurance, clean-up, hours of operation, liability, and any other matters deemed appropriate.

(b) The refreshment concession shall be allowed for a trial period ending December 31, 1997. On or before October 1, 1997, the County Engineer shall submit to the Council, a recommendation for continuation or termination of such concession use. (Ord. No. 700, February 5, 1996)

Section 23-3.6 Commercial Call Center Concession At The Pi'ikoi County Building

Notwithstanding any ordinance to the contrary, a commercial call center concession at the Pi'ikoi County Building is hereby authorized pursuant to the following minimum requirements:

(1) The County Engineer shall designate the exact location of the commercial concession within the Pi'ikoi County Building.

(2) The commercial concession shall include a nationwide customer call center operation.

(3) The Finance Director, in consultation with the County Attorney and the Office of Economic Development, shall establish requirements pertaining to qualifications of the concessionaire, specification as to the type of concession and call center operation to be allowed, method of award (including compliance with Section 102-2, HRS, if applicable), term of the concession, capital expenditures allowed, insurance, hours of operation, parking requirements, liability, and any other matters deemed appropriate.

(4) The Concessionaire shall be required to obtain any necessary permits from the State and County.

(5) The Finance Director shall be authorized to enter into multi-year concession contracts not to exceed five (5) years with two (2) separate one (1) year extensions at the consent of the County.

(6) The Concessionaire shall be required to provide off-site parking for all of its employees during County operational hours. (Ord. No. 769, June 19, 2001)

ARTICLE 4. COUNTY BUSINESS LICENSES

Sec. 23-4.1 County Business Licenses.

The Director of Finance shall issue county licenses to businesses as required by Chapter 445, Hawaii Revised Statutes, as amended, except as provided in Section 23-4.2 of this Article. (Ord. No. 535, February 4, 1988)

Sec. 23-4.2 Elimination Of Business Licenses.

The following businesses are not required to obtain an annual county license or to pay an annual county license fee:

(1) The sale of beef or pork. (Sec. 445-61, Hawaii Revised Statutes)

(2) The auction of goods, wares, and merchandise or other property. (Sec. 445-21, Hawaii Revised Statutes)

(3) The manufacture of food products. (Sec. 445-71, Hawaii Revised Statutes)

(4) The operation of a laundry, etc. (Sec. 445-81, Hawaii Revised Statutes)

(5) The keeping of a lodging or tenement house, hotel, boarding house or restaurant. (Sec. 445-91, 445-92, and 445-93, Hawaii Revised Statutes)

(6) The production, processing or preparation of milk. (Sec. 445-101, Hawaii Revised Statutes)

(7) The sale of poisonous drugs, household remedies, etc. (Sec. 445-151, Hawaii Revised Statutes)

(8) The soliciting of orders or offering to sell or take orders for goods, wares, merchandise or service for immediate or future delivery in return for money. (Sec. 445-185, Hawaii Revised Statutes)

(9) The providing of bail bond or surety for compensation. (Sec. 445-201, Hawaii Revised Statutes)

(10) The carrying of freight and baggage. (Sec. 445-221, Hawaii Revised Statutes)

(11) The carrying of passengers. (Sec. 445-222, Hawaii Revised Statutes) (Ord. No. 535, February 4, 1988)

CHAPTER 23A

ENTERPRISE ZONES

Article 1.	General Provisions
Sec. 23A-1.1	Findings and Purpose
Sec. 23A-1.2	Definitions
Article 2.	Enterprise Zones
Sec. 23A-2.1	Nomination of enterprise zones
Sec. 23A-2.2	Designation of enterprise zones and other requirements
Sec. 23A-2.3	Amendment of enterprise zones
Sec. 23A-2.4	Provision of county incentives

ARTICLE 1. GENERAL PROVISIONS

Sec. 23A-1.1 Findings and Purpose.

The council finds that the State of Hawaii, through Chapter 209E, Hawaii Revised Statutes, and Chapter 6 of Title 15, Hawaii Administrative Rules, has established procedures for the designation of enterprise zones for the purpose of stimulating business and industrial growth. Pursuant to said chapter and rules, qualified businesses in enterprise zones shall be entitled to the following state incentives:

(a) a seven-year exemption from general excise taxes on gross proceeds from qualified business conducted within an enterprise zone;

(b) an eighty percent income tax abatement the first year, decreasing ten percent each year thereafter over the next six years;

(c) an income tax credit in an amount equal to eighty percent of the unemployment taxes paid during the first year, decreasing ten percent each year thereafter over the next six years.

The council further finds that the county may nominate up to six enterprise zones for designation by the governor. Following designation of the nominated enterprise zone or zones, the state will accept applications from qualified businesses interested in participating in the enterprise zone program.

The purpose of this chapter is to set forth county procedures for the nomination, designation, amendment, provision of county incentives, and other requirements, for enterprise zones. (Ord. No. 660, July 19, 1994)

Sec. 23A-1.2 Definitions.

Unless it is plainly evident from the context that a different meaning is intended, words and phrases used in this chapter are defined as follows:

"Council" means the council of the County of Kauai.

"DBEDT" means the Department of Business, Economic Development and Tourism, State of Hawaii.

"Qualified business" means any corporation, partnership, or sole proprietorship authorized to do business in the State as defined in Section 209E-2, H.R.S. as follows, and as may be amended:

1. Subject to the state corporate or individual income tax under Chapter 235, Hawaii Revised Statutes; the public service company tax under Chapter 239, Hawaii Revised Statutes; or the bank and financial corporation tax under Chapter 241, Hawaii Revised Statutes;

2. Engaged in manufacturing, the wholesale sale of tangible personal property, or a service business or calling or engaged in producing agricultural products where the business is a producer as defined in Section 237-5, Hawaii Revised Statutes; and

3. Qualified under Section 209E-9, Hawaii Revised Statutes, which includes gross receipts and employment criteria.

"Service business or calling" means any corporation, partnership, or sole proprietorship that acts upon or processes tangible personal property, such as cleaning, repair and maintenance, and does not mean activities which are not performed upon tangible personal property. (Ord. No. 660, July 19, 1994)

ARTICLE 2. ENTERPRISE ZONES

Sec. 23A-2.1. Nomination of Enterprise Zones.

(a) The mayor or council, with the concurrence of the mayor, may nominate an area to be designated as an enterprise zone, provided, that all nominations shall be approved by the council by resolution.

(b) The nominated area shall be located within one or more contiguous United States census tracts that, based upon the latest census tract data, meet at least one of the following criteria:

(1) Twenty-five percent or more of the population of the area shall have incomes below eighty percent of the median family income of the county; or

(2) The unemployment rate in the area shall be one and a half times the average unemployment rate for the state.

Notwithstanding Sec. 23A-2.1(b) above, from June 30, 1993, the effective date of Act 341, Session Laws Hawaii 1993, until January 1, 1996, all census tracts within the county shall be eligible for designation as an enterprise zone as may be provided by State law.

(c) In nominating an area for designation as an enterprise zone, the mayor or council shall consult with all appropriate county agencies and shall consider the economic condition of the area, the potential benefits which may accrue

to the county from business and industrial development in the area, the need and potential for job creation in the area, and the overall plan for redevelopment or stimulation of an area.

(d) Following approval by the council by resolution, the mayor or the mayor's designated representative shall submit an application to the State DBEDT for processing and recommendation to the governor for designation of the nominated area as an enterprise zone. The application shall include:

(1) A written description of the boundaries of the proposed zone;

(2) A map identifying the proposed enterprise zone boundaries relative to the boundaries of the census tracts that will be fully or partially included in the zone, and showing the state land use district classifications, publicly held lands, and county general plan and/or development plan designations; and

(3) A statement indicating the local incentives proposed by the county. (Ord. No. 660, July 19, 1994)

Sec. 23A-2.2 Designation of Enterprise Zones and Other Requirements.

(a) Upon designation by the governor of an area as an enterprise zone, the said enterprise zone shall retain enterprise zone status for a twenty-year period beginning on the date of the governor's designation. The amendment of a zone status under Sec. 23A-2.3 of this chapter shall not extend the twenty year period.

(b) Within sixty days of the designation by the governor of an area as an enterprise zone, the mayor or the mayor's designated representative shall submit to the DBEDT a survey of the existing business conditions within the said enterprise zone, as required by DBEDT.

(c) Annually, and within sixty days after the anniversary date of zone designation by the governor, the mayor or the mayor's designated representative shall submit to the DBEDT a report evaluating the enterprise zone program's effectiveness upon the said enterprise zone, as required by DBEDT.

(d) If any portion of an area designated as an enterprise zone is subsequently included in an area designated as an enterprise zone by an agency of the federal government, the said enterprise zone shall be enlarged to include the area designated by the federal government.

(e) Pursuant to Sec. 209E-9, H.R.S., as may be amended, after designation as an enterprise zone, each qualified business firm in the zone shall submit annually to DBEDT a statement requesting one or more of the tax incentives provided in Chapter 209E, Hawaii Revised Statutes. The statement shall be accompanied by an approved form supplied by DBEDT and completed by an independent certified public accountant licensed by the State which states that the business firm meets the definition of a "qualified business."

A copy of the statement submitted by each business to DBEDT shall be forwarded to the mayor and county council.

Tangible personal property must be sold by an establishment of a qualified business within an enterprise zone and the transfer of title and delivery to the buyer of the tangible personal property must take place in the same enterprise zone in which the tangible personal property is sold. Services must be sold by an establishment of a qualified business engaged in a service business or calling within an enterprise zone and the services must be delivered in the same enterprise zone in which sold. Any services rendered outside of an enterprise zone shall not be deemed to be the services of a qualified business.

(f) Any enterprise zone shall comply with applicable county and state laws and rules, unless otherwise provided herein. (Ord. No. 660, July 19, 1994)

Sec. 23A-2.3 Amendment of Enterprise Zones.

(a) The mayor or council, with the concurrence of the mayor, may initiate a request to amend a designated enterprise zone, provided, that all such requests shall be approved by the council by resolution.

(b) Requests for amendments may be considered if the amendments relate to:

- (1) Changes in local program incentives;
- (2) Changes in zone boundaries; or
- (3) Termination of the zone.

(c) Following approval by the council by resolution, the mayor or the mayor's designated representative shall submit a written notification of the requested amendment to the State DBEDT for review and forwarding to the governor for approval. If approved by the governor, the requested amendment shall take effect on the date of the governor's approval. (Ord. No. 660, July 19, 1994)

Sec. 23A-2.4 Provision of County Incentives.

(a) County incentives shall be proposed at the time of initial application for the designation of a nominated enterprise zone or proposed as amendments to a previously designated enterprise zone. Input from all affected county agencies shall be obtained.

(b) Proposed incentives may be made generally available throughout the zone, or available only to certain types of businesses, or available only for limited periods of time.

(c) If the council is unable or unwilling to provide any of the incentives set forth in Section 209E-12, Hawaii Revised Statutes, or other incentives acceptable to the Department of Business, Economic Development and Tourism, the enterprise zone shall terminate. Qualified businesses located in the enterprise zone shall be eligible to receive the state tax incentives provided by this chapter even though the zone designation has terminated. No business may become a qualified business after the date of zone termination. The

council may amend its application with the approval of the Department of Business, Economic Development and Tourism; provided the council proposes an incentive equal to or superior to the unamended application. (Ord. No. 660, July 19, 1994)

